

REVIEW COMMITTEE**PG and E**

PACIFIC GAS AND ELECTRIC COMPANY
 245 MARKET STREET, ROOM 444
 SAN FRANCISCO, CALIFORNIA 94106
 (415) 781-4211, EXTENSION 1125

IBEW 

INTERNATIONAL BROTHERHOOD OF
 ELECTRICAL WORKERS, AFL-CIO
 LOCAL UNION 1245, I.B.E.W.
 P.O. BOX 4790
 WALNUT CREEK, CALIFORNIA 94596
 (415) 933-6060
 R.W. STALCUP, SECRETARY

CASE CLOSED
LOGGED AND FILED

OCT 14 1982

D.J. BERGMAN, CHAIRMAN

REVIEW COMMITTEE DECISION

DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

East Bay Division Grievance Nos. 1-1430-81-337 & 1-1484-81-291
 Review Committee File Nos. 1536-82-6 & 1537-82-7

STATEMENT OF THE CASES

These cases involve two grievances filed on behalf of a Traveling Mechanical Helper in East Bay Division. Review Committee Case No. 1536-82-6 deals with the Company's refusal to allow the grievant to return to full work status after his doctor had notified Company that the grievant was able to resume work following a lengthy recuperation from an industrial injury. Review Committee Case No. 1537-82-7 concerns the appropriateness of Company's subsequent action in discharging the grievant because his one year medical leave of absence had expired while he was being treated for continuing psychiatric problems.

FACTS OF THE CASES

Review Committee Case No. 1536-82-6: In the past, the grievant had suffered three industrial injuries involving his left shoulder and two backstrains. The cumulative effect of these injuries necessitated his being off work on occasion and on light duty work assignment at other times. During this period, the grievant began to evidence hostile behavior towards local supervision which resulted in a confrontation on April 8, 1980 when the grievant became angry and threw his hard hat and safety glasses and struck a wall with his fist. This incident caused Company to seek a psychiatric diagnosis of the grievant. On April 10, 1980, the grievant was examined by a psychiatrist who diagnosed the presence of emotional problems but recommended continuing light duty work. On April 11, 1980, the grievant declined to report for such work "due to emotional problems." Then on April 14, 1980, the grievant wrote a note to his supervisor claiming that "I can no longer control my actions." The Company had already instructed the grievant on April 11, 1980 to remain off work and to use his remaining sick leave and then to go on unpaid medical leave of absence. There followed a lengthy period of time when the grievant was being treated by medical doctors for his physical condition and by a psychologist and several psychiatrists for his emotional problems. Because of Company's concern over the mental health of the grievant, they declined to return the grievant to work even though his physical condition had improved to the point where two panel physicians and the grievant's own doctor had recommended his return to work. The last of these Company refusals, on August 8, 1981, precipitated the first grievance filed by Union.

Review Committee Case No. 1537-82-7: The grievant had been placed on unpaid medical leave of absence on April 16, 1980; and during most of 1981, he continued to receive treatment for both his physical and his emotional problems. Frustrated by his inability to return to work, the grievant threatened to picket his former place of employment in order to obtain media exposure of his situation. On August 28, 1981, a panel psychiatrist found the grievant's condition to be permanent, stationary and rateable and he declared that the grievant was to be restricted from returning to work at his former headquarters. On November 12, 1981, Company notified grievant by letter that he had been discharged retroactive to June 13, 1981 because his one year leave of absence had expired. This action caused the second grievance to be filed by Union.

DISCUSSION

In discussing the many complications in these cases, the Review Committee became aware of two occurrences which, while not falling within the scope of the grievance procedure, were to have a determining effect on the outcome of these cases. The first occurrence was that on January 12, 1981, the grievant had formally requested that Company place him on Long Term Disability (LTD) status. On February 12, 1982, this request was denied on the basis that the grievant had been offered a job which he had refused. The other occurrence was that in pursuit of a Worker's Compensation Claim, the grievant had, on March 13, 1982, signed a Compromise and Release Agreement with Company. In return for a monetary settlement, the grievant had released the Company from all claims in the form of wages, LTD, Supplementary payments, or for temporary disability through May 1, 1982. In addition to this information, the Review Committee was informed that in July 1982 the Company had reconsidered its denial of LTD to the grievant. In fact, the grievant was returned to the Company payroll on LTD status. This action had the effect of removing the grievant's discharge and thus mooted the issue in Review Committee Case No. 1537.

This left at issue the Company's refusal to return the grievant to work following the medical release cited in Review Committee Case No. 1536 related to his physical condition. The Review Committee noted that during this period, the reports from the psychologist and the psychiatrists varied as to the degree of mental disability and to the wisdom of returning the grievant to work. However, there was no such confusion to be found in either the grievant's hostile actions or in his unsolicited declarations as having emotional problems and of being unable to control himself. The Review Committee noted that the realization of this grievant's mental problems preceded the first doctor's release from his physical disability. On that basis, the Committee recognizes that the grievant had a mental disability already established by the time his physical disability had healed. As such, the Company had acted properly in denying the return to work.

DECISION

It is the decision of the Review Committee that the Company acted properly in refusing the grievant's return to work until such time as medical releases for both the grievant's physical and mental disabilities had been obtained. Further, the Review Committee finds that the grievant has been reinstated as an employee of the Company by placing him on the LTD payroll. As such, the Review Committee agrees to close both cases without further consideration.

FOR COMPANY:

L. C. Beanland
F. C. Buchholz
J. B. Stoutamore
D. J. Bergman

By 

Date 10-1-82

FOR UNION:

G. W. Abrahamson
R. L. Choate
P. Pelucca
R. W. Stalcup

By 

Date 10-12-82